HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 672 (MS) of 2004

Uttaranchal Power Corporation Ltd. .....Petitioner.

Versus

IInd F.T.C./A.D.J.Hardwar And others. .....Respondents.

Counsel for the petitioner Sh. Ranjit Saxena
Counsel for the respondents Sh. A.K. Sharma

Dated: 4.8.2004

Hon'ble Rajesh Tandon J.

Heard Sh. Vinay Kumar holding the brief of Sh. Ranjit Saxena learned counsel for the petitioner and Sh. A.K. Sharma counsel for the respondents No. 2.

By the present writ petition the petitioner has prayed for condonation delay in depositing the amount in the court below.

The petitioner has submitted that the delay in depositing of Rs. 6 lacs was due to summer vacation in the trial court.

On 5-5-2004, His lordship Hon'ble Mr. Justice M.M. Ghildiyal passed the order;-

"After creation of the state of Uttaranchal, the appeal was transferred to District Haridwar.

The appeal was dismissed twice for want of prosecution.

By the impugned order, the Additional District Judge, Haridwar has allowed the restoration application with the condition that the appeal shall be restored to its original number, only if the

respondent deposits a sum of Rs. 12.6 lacs. The petitioner has challenged this order.

Considering the facts and circumstances of the case that the case is pending since 1980 and twice the case has been dismissed for want of prosecution. Further considering the facts that the appellant was no aware about the date fixed before the F.T.C./Addl. District Judge Roorkee after the case was transferred from the Court of District Judge Haridwar.

In the circumstnfces narrated above and in the interests of Justice it is provided that, in case the petitioner deposits a sum of Rs. 6 lacs (Rs. Six lacs) before the court below, within a period of one month from today the appeal shall be restored to its original number. However, the amount so deposited by the petitioner shall not be paid to the opposite parties till the appeal is decided.

The appeal may be decided expeditiously and preferably within a period of three months.

With these observations, the writ petition is disposed of finally.

A perusal of the application shows that cause shown in not depositing the amount well within time is sufficient. The delay in depositing the amount is condoned. There should be a Justice oriented approach by the presiding officer in the matters of condonation of delay. Amount has already been deposited by way of fixed deposit. The same shall be accepted.

Consequently, the writ petition is disposed of with the aforesaid observations.

(Rajesh Tandon J.)

4.8.2004
Dhyani